

REMARKS

Initially, Applicants would like to express their appreciation to the Examiner for the detailed Official Action provided, for the indication that Applicants' drawings are acceptable, and for the acknowledgment of Applicants' Information Disclosure Statement by return of the Form PTO-1449.

Applicants would also like to express their appreciation to the Examiner for the acknowledgment of Applicants' Claim for Priority and receipt of the certified copy of the priority document in the Official Action. In order to perfect Applicants' claim for priority, Applicants are submitting herewith a verified English language translation of their foreign priority document. Accordingly, Applicants respectfully request acknowledgment of receipt of the English language translation of their foreign priority document in the next Official Action.

On pages 2-4 of the Official Action, claims 1-8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over HASHIMOTO (U.S. Patent Application No. 2002/0044212) in view of ARITA et al. (U.S. Patent No. 6,493,061) and KONNO et al. (U.S. Patent No. 6,157,781).

Applicants respectfully traverse the rejection under 35 U.S.C. § 103(a).

As an initial matter, it is pointed out that HASHIMOTO (U.S. Patent Application

No. 2002/0044212) does not qualify as prior art against the present application for purposes of a rejection under 35 U.S.C. § 103(a) due to common ownership with the present application. See 35 U.S.C. § 103(c). It is noted that HASHIMOTO is a publication of Application No. 09/972,241 which was filed on October 9, 2001, prior to the filing date of the present application on February 12, 2002. However, HASHIMOTO did not publish until April 18, 2002, which is after the filing date of the present application. Therefore, it appears that HASHIMOTO was applied in the Official Action as a 102(e)/103 reference.

As pointed out above, HASHIMOTO is not available for use as prior art against the present application for purposes of a rejection under 35 U.S.C. § 103(a) due to common ownership. Present Application No. 10/073,105 and HASHIMOTO were, at the time the invention of the present Application No. 10/073,105 was made, owned by ASAHI SEIMITSU KABUSHIKI KAISHA. It is noted that an Assignment of the HASHIMOTO invention to ASAHI SEIMITSU KABUSHIKI KAISHA was recorded in Application No. 09/972,241 at Reel 012244, Frame 0727. It is further noted that an Assignment of the invention of the present Application No. 10/073,105 to ASAHI SEIMITSU KABUSHIKI KAISHA was recorded at Reel 012584, Frame 0284. Therefore, the rejection of claims 1-8 under 35 U.S.C. § 103(a) as being unpatentable over HASHIMOTO in view of ARITA et al. and KONNO et al. is at least improper due to the unavailability of the HASHIMOTO patent as prior art. Accordingly, the withdrawal of such rejection is respectfully requested.

Applicants note that ASAHI SEIMITSU KABUSHIKI KAISHA has since changed its name to PENTAX Precision Co., Ltd. Applicants further note that the present Application No. 10/073,105 and Application No. 09/972,241 have both been assigned to PENTAX Corporation by Assignments which were filed in the U.S. Patent and Trademark Office on April 26, 2005, and March 14, 2005, respectively.

Applicants further note that the HASHIMOTO reference is not a proper reference to be applied against the claims of the present application under 35 U.S.C. § 103(a) since it does not qualify as prior art under any section of 35 U.S.C. § 102. In this regard, Applicants note that the present application claims priority, under 35 U.S.C. § 119, of Japanese Application No. 2001-48045 filed on February 23, 2001. In contrast, HASHIMOTO is entitled to a filing date (i.e., 102(e) date) of October 9, 2001.

Accordingly, because of Applicants' earlier foreign filing date, it is respectfully submitted that HASHIMOTO does not qualify as prior art under any section of 35 U.S.C. § 102, and thus does provide an appropriate basis for a rejection under 35 U.S.C. § 103(a). In order to perfect Applicant's claim for priority, Applicant has prepared and is submitting herewith a verified English language translation of the above-noted foreign priority document. Clearly then, HASHIMOTO is not an appropriate reference for use under 35 U.S.C. § 102(e), and therefore does not provide an appropriate basis for a rejection under 35 U.S.C. § 103(a). For this reason alone, it is respectfully submitted that the Examiner's rejection is improper and should be withdrawn.

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Applicants respectfully submit that the rejection under 35 U.S.C. § 103(a) is improper at least for each and certainly for all of the above-noted reasons. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection, and an early indication of the allowance of all of the pending claims.

SUMMARY AND CONCLUSION

Reconsideration of the outstanding Official Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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Attachment: Verified English translation of Japanese Application No. 2001-48045

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